

**IN THE HIGH COURT OF JUDICATURE
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

**WEDNESDAY THE TWENTYFIFTH DAY OF FEBRUARY
TWO THOUSAND AND FIFTEEN**

HONOURABLE SRI JUSTICE S.V. BHATT

WRIT PETITION NO. 4378 OF 2015

Between:

Bondili Narendra Kumar ... Petitioner

V/s.

The State of Andhra Pradesh
Represented by its Prl.Secretary
Revenue Department,
Secretariat Buildings,
Hyderabad & Anr. ... Respondents

Counsel for the Petitioner : Sri Taddi Nageswara Rao

Counsel for the Respondents : GP for Revenue [AP]

The court made the following : [order follows]

HONOURABLE SRI JUSTICE S.V. BHATT

WRIT PETITION NO.4378 OF 2015

ORDER:

With the consent of learned counsel for the petitioner, the Assistant Government Pleader for Revenue and the Standing Counsel for Municipality, this writ petition is disposed of at the admission stage.

2. In this writ petition, the petitioner is praying to declare the action of respondent No.3 in refusing to receive and register the document presented by the petitioner in respect of house property bearing Door No.6-81, semi constructed house with lintel level walls with Assessment No.1092002759, Kota street, Ward No.8, in survey No.159/2, Salur village, Salur Municipality, Vizianagram district; item No. [1] to an extent of 71.55 sq.yards, item No. [2] 76.55 sq.yards on the ground that the subject property is Gramakantam and prohibited for registration.

3. The petitioner claims that he and his niece Bondili Gauthami are the legal heirs and joint owners of the house property bearing Door No.6-81, semi constructed house with Assessment No.1092002759 situated at Kota Street, Ward No.8 in

survey No.159/2 of Salur village, Salur Municipality, Vizianagaram district. The petitioner further claims that his father and his brother got the said property ancestrally. Out of affection, being daughter of his brother, she agreed to register the relinquishment deed for the subject property in his name and handed over the possession of the said property. The petitioner further claims that himself and his brother's daughter got equal share in the subject property and his niece agreed to relinquish her share in the said property out of affection and by taking Rs.2,00,000/- towards her share. When he approached the third respondent to know the particulars regarding stamp duty and registration charges, the Sub-Registrar/3rd respondent has refused to entertain the document for registration on the ground that survey No.162/2 is recorded as Gramakantam. The further objection of second respondent in this behalf is Gramakantam is Government property and the property is included in the prohibitory list maintained under section 22-A of the Act. The inclusion of Gramakantam lands in prohibitory list is in terms of G.O.Ms.No.100 Revenue [Assn.I] Department dated 22/02/2014. Hence, the writ petition.

4. Learned Assistant Government Pleader contends that as

revenue records show the status of land as poramboke, the objection was validly raised and petitioner is not entitled to undertake deed of conveyance on such land.

5. The objection raised by respondents is specifically overruled by this court in **VONNA BANGARAJU V/s. GOVERNMENT OF ANDHRA PRADESH AND ORS** [\[1\]](#). Further as held in the following cases, Gramakantam land is not owned by Government and cannot be included in prohibitory list under section 22-A of Registration Act.

6. Further the meaning and the rights of Gramakantam lands are well settled by authoritative pronouncements.

7. In **Palani Ammal v. L. Sethurama Aiyangar**, [\[2\]](#) it is held as under:

“Gramanatham is not a communal property in the sense in which thrashing floor or burning grounds or other property is communal that is property reserved for the use of the community.

Grama Natham a land in the occupation of the individual in possession of the gramanatham cannot be interfered and it could very well resist ejectment and also institute a suit in ejectment against the trespasser.”

8. In **A.K.Thillaivanam v. The District Collector, Chengai**

Anna

District, ^[3] it is held as under:

“..The Village Natham is a land which never vested with the respondents and they have no right to it. Admittedly, when the land has been classified as village Natham, it is obvious that no portion of the land vests with the respondents. The admitted classification is village Natham and merely because the petitioners have converted the same into agricultural lands, no right could accrue to the respondents even after conversion.”

9. In **The Executive Officer, kadathur Town Panchayat v.**

V.Swaminathan and others, ^[4] it is held as under:

“Further ‘Grama Natham’ is defined in the Law Lexicon as “ground set apart on which the house of village may be built”. Similarly, Natham land is described in Tamil lexicon published under the authority of University of Madras to the effect that it is a residential portion of a village; or portion of a village inhabited by the non-Brahmins; or land reserved as house sites; etc.

10. The properties once understood as classified as gramanatham, the Government cannot claim right over the said property. This concept has been elaborately discussed in the decision reported in **S.Rengaraja Iyengar**

V,. Achikannu Ammal and another ^[5]. The relevant portion reads as follows:

“In order that a land may properly be described as house-site within the meaning of that expression in section 2 of Madras Act III of 1905, it is not necessary that there should be a residential building actually constructed and standing on that site. A person may in a village habitation own a house in a street and a site on the outskirts of the habitation but within the limits of the gramamatham, which he uses for the purpose of storing his hay and manure, if he is an agriculturist, or as a smithy, if he is a smith, or as a brick-kiln if he is a brick-maker or as a place for weaving if he is a weaver. On such sites, buildings or sheds may when necessary be constructed. But whether such buildings or sheds are constructed or not, such sites, are in my opinion, house-sites within the meaning of that expression in section 2 of the Madras Act III of 1905. Madras Act III of 1905 is made applicable to an estate when it is notified under Madras Act III of 1905 is made applicable to an estate when it is notified under Madras Act XXVI of 1948. The provision as to vesting under section 3(b) of Madras Act XXVI of 1948 should be read so as to be in consonance with the provisions regarding the applicability of the enactments relating to ryotwari areas which are expressly made applicable to estates notified under the Act.

It is contended that, in relation to buildings, specific provision is made under section 18 of Act XXVI of 1948 and that, consequently, unless a house-site can be brought within the ambit of section 18, such house-site should be held to be property as to which title gets transferred to the Government under section 3(b). Section 18 deals, in my opinion, with building wherever they may be situate, whether in the gramamathams, or in ryoti lands or pannai lands or waste lands. Section 18 has no particular application to buildings or house-sites in a gramamatham. A building in a gramamatham (or village habitation) is protected from transfer of title to the Government both under section 18(1) of Madras Act XXVI of 1948 and under the Madras Land Encroachment Act (III of 1905). The title to a house site in a gramamatham is

protected from transfer to Government by the operation of Madras Act III of 1905.”

11. The further development in the matter is that Government issued G.O.Ms.No.56 Revenue [Assn.I] Department dated 16/02/2015, directing deletion of Gramakantam from prohibitory list.

12. For the above reasons, the refusal to register the petition property on the ground that it is Gramakantam, is illegal.

13. Accordingly, following the judgment of this Court in **VONNA BANGARAJU V/s. GOVERNMENT OF ANDHRA PRADESH AND ORS** [referred supra], this Writ Petition is ordered, directing the third respondent/Sub-Registrar, Salur, Vizianagaram district to furnish market value concerning the properties situated in Survey Nos.159/2 of Salur Municipality and to receive the deeds of conveyance as and when the same are presented by the petitioner on the said land and process the same in accordance with the provisions of Indian Registration Act, 1908 and the Indian Stamp Act, 1899 without raising the objection that the land is classified as Government land. The Sub-Registrar shall complete the registration formalities, if the

document is in order and to release the same. If the Sub-Registrar has any other valid reason for not entertaining the documents, he shall pass a reasoned order and communicate the same to the petitioner. There shall be no order as to costs.

14. As a sequel, Miscellaneous Petitions if any, pending in this writ petition shall stand closed.

JUSTICE S.V. BHATT.

25/02/2015
IsL

HONOURABLE SRI JUSTICE S.V. BHATT

WRIT PETITION NO. 4378 OF 2015

Circulation No.
Date: 25/02/2015
Court Master: I s L
Computer No.43

[\[1\]](#) 2014 [3] ALD-443

[\[2\]](#) (1949) 1 ML J 290,

[\[3\]](#) 1998 (3) LW 603,

[\[4\]](#) 2004 (3) CTC 270

[\[5\]](#) 1959 (II) MLJR 513